The Coroner and the Common Law

II. Functions of the Coroner

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THE OFFICE OF CORONER was created by the California State Legislature in 1876.

Under Sections 10400 and 10425 of the State of California Public Health and Safety Code, together with various sections of the codes of the component counties of California, the coroner is directed to investigate and in his judgment hold an inquest after death in the following circumstances:

1. A person has been killed.
2. A person has committed suicide.
3. Death is the result of an accident.
4. An injury is a contributing cause of death.
5. Death has occurred without medical attention.
6. The attending physician has been unable to state the cause of death.
7. There is reasonable ground to suspect that death was directly or indirectly caused by the criminal act of another.
8. Continued absence of an attending physician.
9. The physician of record was in attendance less than 24 hours before death.
10. A person has died suddenly.
11. The circumstances of the death are unusual.
12. Death has occurred through the instrumentality of some other person.
13. Death has occurred under any suspicious circumstances.

In addition to these provisions, there are nonstatutory responsibilities which a coroner may have to assume. For example, if a husband and wife die in the same accident without evidence of which died first, the medical presumption is generally that the wife died first, she being assumed to be the weaker of the two. In similar circumstances many life insurance companies, in order to provide payment to the beneficiary without litigation, hold that the husband died first. On the other hand, considering the present-day tax structure, it would be preferable in certain cases to presume that the wife predeceased her husband, for had her death been subsequent to the husband's she would inherit from him. The children, if there were issue, would in turn [in California] inherit her community half interest from her, thus charging two inheritance taxes against the estate instead of one. In such instances the coroner may be requested to state the time of death as well as the cause.

Review of these statutes reveals a vague, continuous sequence of developments in the medicolegal field paralleling our social evolution. Historically, there have been several episodes of progress through the years, interspersed with eras of retrogression and disintegration of the coroner's office. The basic provisions of our Health and Safety Code come from the old English common laws. These are:

a. If a person has been killed or died as the result of an accident, the coroner is directed to go to the scene of the death and hold an inquest thereupon.

b. If a person has committed suicide the coroner is ordered to investigate the death and thereafter to confiscate the property and belongings of the person. (Suicide under the English code was regarded as a major criminal offense, there being at the time the code was formulated no background of psychiatric understanding and social compassion, such as prevails today.) With certain recent exceptions this is still the case.

The beginning of the industrial revolution is reflected in provisions 3 and 4 of the list above—"death is the result of an accident," and "injury has been a contributing cause of death." In the medieval days of the coroner's office, cases in which death was a result of accident or in which injury had been a contributing cause did not assume major economic proportions. Accidents were common in everyday life and the economic liabilities accrued only to the injured person and his family. With the advent of the industrial revolution, society began to recognize the employer's responsibility for an employee's injury and/or death occurring from an accident, if it was due to negligence of the employer, or unnecessary industrial hazard, or other cause associated with one's employment. The gradual development of industrial accident commissions, double indemnity clauses in life insurance policies for accidental

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death, health and accident insurance and compensation coverage gave accidental injury and death a new pecuniary importance in addition to its historically tragic imputations. Many new problems developed for the responsible public officials in determining whether a person had met death through circumstances wherein someone else had a legal liability and a financial responsibility. With the further refinement of compensation insurance laws, it became necessary for the coroner to determine whether an injury which was the result of an accident occurring at work might be a remote or a contributing cause of death, and as such be compensable. In the ensuing years, illnesses arising (sometimes most tenuously) from industrial injuries have become compensable under the laws of the commonwealth.

It seems probable that most coroners in the past have been capable, within certain limits, of determining how a person was killed. They could also in some cases determine the presence or absence of criminality. They became adept at inquest technique. At this point their responsibilities and their capacities were exhausted. The multifold responsibilities currently assumed by medicolegal authorities in adjudicating the relative contribution of industrial poisons, physical injuries, personal negligence, psychiatric and psychogenic factors, or medical malpractice to illness and death could not be assumed by the untrained and unassisted coroner. These problems are products of our increasingly complex social-economic system, and progressively demand better facilities and services.

Methods of medicolegal investigation and the development of medicolegal training programs lagged far behind their parents, law and medicine. These newly developing socio-medicolegal problems disclosed not only that the existing officials, personnel and equipment of the offices of legal medicine were deficient, but that the regulatory statutes as well were inadequate. The line of distinction between natural and accidental death, suicide and homicide, mayhem and murder, assault and rape, arson and pillage is at times so fine that only with clearly defined authority can the most astute and well-trained investigators with the best of facilities be adequately discerning. Where there is a possibility of remote or minor injury by obscure means being a contributing cause of death, the intricacies of the problem are compounded, often even beyond the capacity of the well staffed modern coroner's office.

Over the past two centuries so many of the miscellaneous responsibilities of the coroner were transferred to other agencies that the duties of the coroner diminished to the simple and fundamentally objective inquest. He had to arrive at his conclusions only by observations made at the scene of death without investigation of the associated circumstances, for the privileges of investigation had been transferred to the police department or the sheriff's office. In 1926, as it had become apparent that no coroner, no matter how experienced and talented, could be reasonably expected to reach accurate conclusions without having more information than could be obtained by looking at the body at the scene of death, the State Legislature restored the prerogative of investigation to the coroner's offices in California. Most coroners then found themselves inadequately prepared to conduct investigations, as they were without trained personnel, proper equipment, work areas or staff-training facilities, and also without money to expand their office capacities. In states where medical examiner systems existed or have become operative, the medical examiner was by law a better qualified official and had more financial support, but the original terms of appointment have directed most medical examiners to be concerned mainly with death of homicidal or suicidal nature. Even the authority of the medical examiner did not at first include investigations into the industrial accident field. Currently, coroners in California (and medical examiners elsewhere) have the authority and the facility for such investigation.

Development of the Present Health and Safety Code

It is apparent that although the original four provisions of the Health and Safety Code covered the fundamental requirements in cases of homicide, suicide, accidents and injury, they did not cover the other medicolegal needs of society. As medical knowledge grew, the untrained official, whether lay or professional, was unqualified to meet the growing medical responsibilities of his office. It became necessary to acquire the services of scientists and physicians who could solve the academic problems of the office. Provisions 5, 6, 8, and 9 in the list printed at the beginning of this article are all concerned with the acquisition of medical opinion to establish the cause of death to substantiate the coroner's opinion as found by investigation and inquest. In review, these provisions cover:

5. Death which occurs without medical attention.

6. Death where the attending physician has been unable to state the cause of death.

8. Death which occurs during the continued absence of an attending physician.

9. Death where a physician has been in attendance less than 24 hours beforehand.

Three of these provisions (5, 8 and 9) mainly protect the public from the maneuvering of those who seek to make murder or suicide appear to be

death from natural causes. Two (6 and 9) provide legal and scientific consultation in the case of unaccountable death and protect the physician or health officer from being forced into the position of having arbitrarily (and perhaps erroneously) to certify to the cause of death. In such circumstances both medicine and society are better served by an official investigation.

None of the sections so far discussed covers the problem of violations of the Medical Practice Act, nonprofessional instrumentation or criminal abortion, with all the social, medical and religious crosscurrents. Proviso number 7 authorizes the coroner to investigate obscure and intangible cases, including abortions, where he finds that "there are such circumstances as to afford a reasonable ground to suspect that the death was directly or indirectly caused by the criminal act of another." The coroner is protected by this article for he need have only a reasonable ground for suspicion. When deciding upon an investigation, he need at the inception have no specific facts or documentation, the death needing only to have occurred under suspicious circumstances and possibly by the criminal act of another either directly or indirectly. Considerable latitude in instituting and conducting investigations is implied by this rule.

Further authorization for the coroner to investigate became necessary because of the peculiar exigencies arising from drug addictions, untoward reactions to medication, collapse under anesthetics, chemical incompatibilities, allergic reactions, antibiotic sensitivities, organic and inorganic chemical poisonings, food intoxications, suffocation, carbon dioxide inhalation, industrial toxins, automobile accidents and ionizing radiation. Two provisions—"a person has died suddenly," and "the circumstances of death have been unusual"—give the coroner authority to investigate any such uncommon occurrences.

The mechanical age has had great impact upon our national health; and in many cases inexperience, negligence, carelessness, recklessness, alcoholism, incompetence and mechanical failure have been the instruments by which not only the principals and passengers, but also innocent bystanders and casual observers have been injured or killed by moving vehicles. Number 12, cases in which "death occurs through the instrumentality of some other person" covers all such circumstances. Cases of malpractice may also be legally investigated under this rule.

The reason for the inclusion of item 13, covering cases in which "death has occurred under any suspicious circumstances," is obscure but it obviously covers any situation not covered by the previous twelve directives, as well as any unforeseen new problems or situation which will arise in the strange new world of tomorrow. By this authority, a coroner may investigate any death that he decides is associated with any abnormal social or medical pattern or circumstances of behavior which may arouse his suspicion.

That such a motley, disorganized and overlapping group of sanctions, without sequence or continuity, should constitute the authority of a designated public official to investigate the medicolegal problems of a great commonwealth is a sad commentary upon the progress and evolution of statutory law in our generation. It is true that they provide the coroner with definite powers and provide him safeguards in the pursuit of his duty. It is also true that the public is provided with medicolegal services which are commensurate with the quality of the official's work. Practitioners of medicine are given academic assistance and at times the opportunity of confirming their medical conclusions by referring to a properly constituted office the confusing medical problems which arise. But they do not set standards, or behavior patterns of operation or minimal technical qualifications for employment or requirements for official election or appointment. Today, even in the best serviced areas, homicide, suicide, manslaughter and mayhem may occur unsuspected and undetected. Although the most dramatic and apparently still the most newsworthy of coroners' cases, these are no longer the prime circumstances of importance within the medicolegal pattern. Workmen's compensation laws, industrial accident commissions and compensation court awards have given the findings of the medicolegal offices a real and substantial pecuniary value. These findings also have far-reaching social values. For instance they may determine whether a widow must abandon her maternal status and go to work to support her family after the death of her husband, or whether by an industrial insurance award she may stay home to care for and educate her family. Verdicts can be instrumental in deciding whether children go to college or to day-labor, whether a mortgage is foreclosed on the family home, or whether a patient gets private medical care or hospitalization in a publicly supported institution. The apprehension of murder, the revelation of abortion, or the disclosure of charlatanism and malpractice are basically important, but they are currently less important economically than the accurate evaluation of the role of effort in inducing coronary thrombosis and heart failure, or the importance of silicosis, developed during employment, contributing to death from active pulmonary tuberculosis. The child, Industry, has outgrown the giant, Crime, in medicolegal importance within our modern civilization.

This obvious pyramiding of medicolegal responsibilities, both in scope and importance, has led to

general medical and legal confusion and disorganization, within which are alternating bright spots of progress and accomplishment. Education of the general public, the legal and medical profession, medical students, technicians, law enforcement officers and morticians is essential to the best future development of superior medicolegal service. Although meager, some courses are now being offered by various institutions for these purposes. Of first importance both to the public and the professions in this regard is some knowledge about death and of the immediate consequences. Who can sign a death certificate? Who can authorize an autopsy? Who may remove a deceased person from the place of death and when? Who may prepare a body for burial? Who may assume the responsibility for interment? Who are the legal heirs? These and many other items deserve subsequent discussion because they become important immediately upon the death of an individual anywhere in the towns, cities and counties of California, the United States of America, countries of the "civilized" world, and even to a more limited extent in less privileged areas.

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